

REMARKS

Applicants request reconsideration of the outstanding office action in light of the foregoing amendments and following remarks.

Rejections Under 35 U.S.C. § 112, First and Second Paragraphs

Claims 1, 5-8, 12, and 13 are rejected under 35 USC 112, for lack of written description and indefiniteness. Applicants' claims have overcome this rejection by reciting the polynucleotide sequence of SEQ ID NO: 102 and the polynucleotide sequence encoding a polypeptide that comprises the amino acid sequence of SEQ ID NO: 2290.

Rejections Under 35 U.S.C. §§ 102 and 103(a)

The Examiner has rejected claims 1, 5-7 and 12 under 35 USC 102(b) as being anticipated by GenBank Accession No. AC008736. According to the Examiner, "Accession No. AC008736 has 92.7% sequence identity to SEQ ID NO: 102." The Examiner has rejected claim 8 under 35 USC 103(a) as being unpatentable over accession number AC008736. The Examiner has rejected claims 1, 5-7 and 9-13 under 35 USC 102(b) and (e) as being anticipated by Shoshan et al. According to the Examiner, "SEQ ID NO: 23330 of Shoshan et al is 60 nucleotide in length and matches 60 contiguous nucleotides in SEQ ID NO: 102 of the instant claims", and "Shoshan et al also discloses hybridization assays and antisense molecules". The Examiner has rejected claims 1 and 5-13 under 35 USC 102(e) as being anticipated by Penn et al. According to the Examiner, "SEQ ID NO: 6988 of Penn et al is 524 nucleotides in length and matches 524 contiguous nucleotide in SEQ ID NO: 102 of the instant claims", and "Penn et al also teaches the use of arrays and hybridization assays and heterologous expression of nucleic acid".

GenBank Accession No. AC008736 is a 191925 bp sequence, with no information indicating the presence of a gene in the homologous region. Therefore, one of ordinary skill in the art could not have selected a specific genome sequence from the region. In addition, a sequence that is homologous to BRACE2043665 is complementary to the sequence of AC008736. This implies that if the information of AC008736 were used, the present inventors would have to consider both the 191925 bp genome sequence and its

complementary sequence to obtain the genomic sequence or the amino acid sequence of the present invention. Selecting a specific sequence from this vast number of possibilities would not have been possible, even to those skilled in the art. Therefore, the cited references do not render the claims anticipated or obvious.

Conclusion

Applicants believe the present application is in condition for allowance. The examiner is invited to telephone the undersigned with any questions or suggestions to expedite prosecution.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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